

Message Text

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INFO OCT-01 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01

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NSC-07 PA-04 PRS-01 SP-03 SS-20 USIA-15 CEQ-02 COA-02

COME-00 EB-11 EPA-04 IO-14 NSF-04 SCI-06 FEA-02

ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04 INT-08 JUSE-00

OMB-01 DRC-01 TRSE-00 /263 W
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R 261959Z APR 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 2081

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY TOKYO

USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 01 OF 03 BONN 06750

E.O. 11652: GDS

TAGS: PBOR, UN

SUBJECT: LOS: APRIL 26 CONSULTATIONS WITH FRG

1. SUMMARY: CONSULTATIONS BETWEEN US LOS TEAM (LED BY JOHN NORTON MOORE) AND FRG OFFICIALS (LED BY AMBASSADOR KARL KNOKE) UNDERScored STRONG COMMON INTERESTS SHARED BY US AND FRG IN LOS NEGOTIATION AND DESIRE FOR CLOSE COOPERATION ON BOTH SIDES. FRG STRONGLY SUPPORTS US STRAITS POSITION AND FREEDOM OF NAVIGATION. MAJOR POINT OF DIFFERENCE RELATES TO DISTANT WATER FISHERIES INTEREST OF FRG. FRG OFFICIALS INDICATED STRONG SUPPORT FOR NON-DISCRETIONARY ACCESS SYSTEM FOR DEEP SEABED MINING BUT ALSO REVEALED FRG IS CONSIDERING POSSIBLE FALLBACK WHICH WOULD ENVISAGE DIRECT EXPLOITATION BY INTERNATIONAL AUTHORITY AS WELL AS
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PARALLEL NON-DISCRETIONARY LICENSING SYSTEM MOORE

STRONGLY OPPOSED GIVING INTERNATIONAL AUTHORITY RIGHT TO EXPLOIT. END SUMMARY.

2. APRIL 26 CONSULTATION PARTICIPANTS INCLUDED ON GERMAN SIDE: AMBASSADOR KNOKE, FRG REPRESENTATIVE FOR THE LOS CONFERENCE AND CHAIRMAN FRG TASK FORCE ON LOS; DR. MARTIN FLORIN, FOREIGN OFFICE; DR. WERNER KAUFMANN-BUHLER, FOREIGN OFFICE; AND DR. KARL BOHRINGER, FMOD. ON US SIDE, IN ADDITION TO MOORE, WHO IS CHAIRMAN OF NSC INTER-AGENCY TASK FORCE ON THE LAW OF THE SEA AND DEPUTY SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LOS CONFERENCE, US PARTICIPANTS INCLUDED: FRANK E. CASH, DCM; FRANCIS J. MEEHAN, POLITICAL COUNSELOR; PETER PFUND, LEGAL ADVISOR; AND STUART H. MCINTYRE, STAFF DIRECTOR NSC INTER-AGENCY TASK FORCE ON THE LAW OF THE SEA.

3. BOTH SIDES AGREED STRONGLY ON UTILITY OF APRIL 26 TALKS AND STRESSED DESIRABILITY OF KEEPING IN CLOSE CONTACT IN CARACUS IT WAS AGREED BOTH COUNTRIES WOULD ALSO SEEK TO COOPERATE IN CAPITALS WHERE APPROPRIATE IN ORDER TO OBTAIN SUPPORT FOR THE COMMON POSITIONS SHARED BY THE TWO DELEGATIONS. GERMANS SEEMED TO GREATLY APPRECIATE FACT THAT US HAD INITIATED THESE TALKS AND THEY APPEAR TO WANT TO CARRY FORWARD THIS COOPERATION THROUGHOUT THE CONFERENCE.

4. MOORE STRESSED IT NECESSARY TO MAKE REAL PROGRESS AT CARACUS AND DESCRIBED IN DEPTH US SUBSTANTIVE POSITIONS ON FULL RANGE OF LOS ISSUES AS WELL AS OUR VIEWS ON PROCEDURAL MATTERS. IN HIS OPENING STATEMENT, KNOKE SAID FRG STRONGLY FAVORS AN INTERNATIONAL NON-DISCRETIONARY ACCESS SYSTEM FOR DEEP SEABED MINING; FAVORS ISRA COUNCIL WITH STRONG POWERS; SPOKE OF FRG REJECTION OF ICELANDIC CLAIMS AND CASE BEFORE ICJ ON WHICH FRG ANTICIPATES SPLIT DECISION BEFORE CARACUS SESSION; STRONGLY SUPPORTS US POSITION ON STRAITS AND MARINE POLLUTION; SAID IF IT NOT POSSIBLE TO GET PROCEDURAL FORMULA SOUGHT BY US ON VOTING THAT IT MIGHT THEN BE POSSIBLE TO ACCEPT THE SECRETARIAT DRAFT PROVIDED THAT THE GENTLEMENS' AGREEMENT IS ADOPTED BY CONFIDENTIAL

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CONFERENCE; SUGGESTED FINDING A MEANS FOR REDUCING THE NUMBER OF PAPERS BEFORE THE CONFERENCE LIMITING THE ALTERNATIVES TO TWO OR THREE ON EACH ISSUE; AND EXPRESSED REGRET THAT FRG HAD NOT BEEN INVITED TO PARTICIPATE IN EVENSON (NORWAY) PRIVATE CONSULTATIONS IN NEW YORK.

5. MOORE STRESSED IMPORTANCE OF UNIMPEDED PASSAGE OF

STRAITS AND INDICATED CADETCHANNEL WAS IN OUR VIEW
CLEARLY A STRAIT USED FOR INTERNATIONAL NAVIGATION.
KNOKE INDICATED STRONG SUPPORT OF FRG FOR UNIMPEDED
TRANSIT THROUGH AND OVER INTERNATIONAL STRAITS.

6. KNOKE CRITICIZED JANUARY UK DRAFT ON TERRITORIAL
SEAS AND STRAITS AND EXPRESSED HOPE THAT REVISED UK
DRAFT WOULD SEPARATE TERRITORIAL SEA ISSUES AND PASSAGE
OF STRAITS. KAUFMANN-BUHLER SAID THAT APART FROM
STRAITS ISSUE FRG COULD SUPPORT UK DRAFT OBJECTIVE

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CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00

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FM AMEMBASSY BONN

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REDEFINITION OF INNOCENT PASSAGE IN THE TERRITORIAL
SEA.

7. KNOKE INDICATED THAT HE UNDERSTOOD AND SHARED US POSITION FULLY ON MARINE POLLUTION INCLUDING NEED TO AVOID GIVING EVEN RESIDUAL RIGHTS TO COASTAL STATES ON VESSEL-SOURCE POLLUTION. HE EXPRESSLY OPPOSED FRENCH AND JAPANESE "ZONAL CONCEPT. KNOKE INDICATED FRG HAS AGREED TO INCLUSION OF GDR, POLAND, AND BULGARIA IN GROUP OF THIRTEEN, AS PROPOSED BY USSR.

8. FOLLOWING MOORE'S DESCRIPTION OF US POSITION ON SCIENTIFIC RESEARCH, KNOKE SAID HE SHARED US VIEW THAT CONSENT REGIME OF 1958 CONTINENTAL SHELF CONVENTION
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IS A BAD ONE. FRG IS WORKING ON DRAFT TREATY ARTICLES ON SCIENTIFIC RESEARCH WHICH FRG MAY TABLE IN CARACUS DESCRIPTION BY KNOKE OF ARTICLES UNDER CONSIDERATION SUGGESTS THAT THEIR VIEWS ARE SIMILAR TO OURS FOR WATER COLUMN HOWEVER, THEY WOULD APPARENTLY ADD A REQUIREMENT FOR COASTAL STATE CONSENT WHENEVER PROPOSED RESEARCH MIGHT "CHANGE STRUCTURE OF SHELF." MOORE AND MCINTYRE INDICATED US WOULD LIKE TO COOPERATE CLOSELY WITH FRG BEFORE INTRODUCTION OF ARTICLES AND THAT WE WISHED AVOID CONSENT REGIME FOR BOTH WATER COLUMN AND SHELF. US COUNSELOR FOR SCIENTIFIC AFFAIRS MCCLELLAND STRESSED IMPORTANCE OF MARINE SCIENTIFIC RESEARCH ISSUE.

9. KNOKE SAID FRG IS STILL "RELUCTANT" REGARDING COASTAL STATE CONTROL OVER COASTAL RESOURCES. FOLLOWING MOORE'S DESCRIPTION OF US FISHERIES POSITION, INCLUDING STRONG CONGRESSIONAL SUPPORT FOR 200 MILE FISHERIES BILL, KNOKE SAID THAT PROBABLY OVER HALF OF FISH TAKEN BY FRG FISHERMEN IS FROM DISTANT WATERS, OF WHICH APPROXIMATELY ONE-THIRD IS OFF THE COAST OF ICELAND. KNOKE SAID AMBASSADOR ZORIN (USSR) RECENTLY VISITED SCANDANAVIA, INCLUDING NORWAY AND DENMARK. ZORIN APPARENTLY SUGGESTED A POSSIBLE 50 MILE EXCLUSIVE FISHING ZONE PLUS A 150 MILE "REGULATION ZONE." KNOKE INDICATED THAT AT THIS STAGE, FRG POSITION IS HARD ON QUESTION OF COASTAL STATE CONTROL OVER COASTAL FISHERIES, WHICH IT OPPOSES, BUT IF LATER IT HAS TO BE GIVEN UP, THEN REGIONAL SOLUTION SEEMS BEST. MOORE INDICATED MAIN THRUST OF NEGOTIATIONS INCLUDED AT LEAST PREFERENTIAL RIGHTS FOR COASTAL SPECIES IN BROAD AREA ADJACENT TO TERRITORIAL SEA AND HE SOUGHT TO BRING FRG ALONG ON FISHERIES ISSUE. HE POINTED OUT US SUPPORT FOR FULL UTILIZATION CONCEPT OFFERS PROTECTION FOR COUNTRIES SUCH AS FRG. MOORE BEGAN DEEP VALID MINING ISSUE BY EMPHASIZING HEIGHTENED IMPORTANCE OF ISSUE AS A RESULT OF ENERGY CRISIS AND DESCRIBED

NON-DISCRETIONARY LICENSING SYSTEM, INCLUDING
OPPOSITION TO PRICE OR PRODUCTION CONTROLS. HE ALSO
SUPPORTED CLOSED BIDDING SYSTEM AND GENERALLY
VORED SEABED US APPROACH TO DEEP MINING.
DR. FLORIN, HOWEVER, SAID NON-DISCRETIONARY LICENSING
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APPROACH MIGHT BE UNSALEABLE AT CARACAS AND THAT
THEREFORE FRG IS CONSIDERING A POSSIBLE FALLBACK OF
HAVING TWO SEPARATE SYSTEMS, ONE AN INTERNATIONAL NON-
DISCRETIONARY LICENSING SYSTEM AND THE OTHER AN ENTER-
PRISE WITH THE DIRECT RIGHT TO EXPLOIT. FLORIN ADDED
THAT BOTH SYSTEMS WOULD EXIST AND THROUGH TIME IT
WOULD BECOME CLEAR WHICH WAS THE MOST VIABLE, STRONGLY
IMPLYING THAT THE NON-DISCRETIONARY ACCESS SYSTEM

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WOULD WIN OUT. MOORE EXPRESSED STRONG OPPOSITION TO GIVING INTERNATIONAL AUTHORITY RIGHT TO EXPLOIT EVEN AS A FALLBACK AND STRESSED IMPORTANCE OF NON-DISCRETIONARY ACCESS SYSTEM.

10. KNOKE STRONGLY SUPPORTED IMPORTANCE OF COMPULSORY DISPUTE SETTLEMENT BUT INDICATED FRG HAS NOT YET TAKEN A POSITION ON QUESTION OF SEPARATE OCEANS TRIBUNAL. HE EXPRESSLY SUPPORTED IDEA OF GIVING PRIVATE PARTIES ACCESS TO TRIBUNAL IN SITUATIONS SPELLED OUT IN US ARTICLES.

11. ON PROVISIONAL APPLICATION, KNOKE INDICATED FRG HAS MAJOR PROBLEMS FOR CONSTITUTIONAL REASONS. KAUF-
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MANN-BUHLER SAID IT WOULD BE EASIER TO GET PROVISIONAL APPLICATION OF DEEP SEA BED REGIME THAN OF FISHERIES. THE IMPLICATION WAS CLEAR THAT THE "CONSTITUTIONAL DIFFICULTIES" RELATED LARGELY TO FRG PROBLEMS WITH FISHERIES ISSUES.

12. BOTH MOORE AND KNOKE CONCLUDED BY STRESSING NEED FOR CLOSE COOPERATION.

13. COMMENT: THESE CONSULTATIONS WERE EXTREMELY VALUABLE. FRG WAS NOT WELL INFORMED ON ALL ISSUES AND PARTICULARLY WELCOMED US SUMMARY OF EVERSON AND NAIROBI MEETINGS. DISCUSSIONS CONFIRMED VERY SUBSTANTIAL AREAS OF STRONG COMMON INTEREST, PARTICULARLY ON NAVIGATIONAL AND DEEP SEABED MINING ISSUES. IN OUR VIEW, WE SHOULD STEP UP CONTACT WITH FRG AND ENCOURAGE THEM TO ATTEMPT TO PERSUADE OTHER COUNTRIES ON THOSE MANY ISSUES WHERE WE SEE EYE TO EYE. IT IS ALSO IMPORTANT TO BRING THEM ALONG ON FISHERIES ISSUES AND WE BELIEVE GOOD START MADE IN THIS DIRECTION.
HILLENBRAND

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